

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2007-151-C – ORDER NO. 2007-
_____, 2007

Application of Alltel Communications,)	
Incorporated for Designation as an Eligible)	OFFICE OF REGULATORY
Telecommunications Carrier under)	STAFF'S PROPOSED ORDER
47 U.S.C. 214 (e)(2))	
_____)	

INTRODUCTION AND JURISDICTION OF THE COMMISSION

This matter is before the Public Service Commission of South Carolina (the Commission) on the Application of Alltel Communications, Incorporated (Alltel) for designation as an eligible telecommunications carrier (ETC) under 47 U.S.C. § 214(e)(2).

Pursuant to 47 U.S.C. § 214(e)(2), the Commission

shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) [provides the services supported by the federal Universal Service Fund and advertise the availability of such services] as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1).

By this Application, Alltel seeks authorization to receive support from the federal Universal Service Fund (USF) for use within Alltel's licensed service area in South Carolina which includes areas served by both rural and non-rural telephone companies.

BACKGROUND

On March 17, 2005, the Federal Communications Commission (FCC) issued its “ETC order.”¹ This order established a minimum set of criteria the FCC uses in evaluating applications for ETC designation. Additionally, the FCC encouraged state commissions that retain jurisdiction over ETC designation to voluntarily adopt the FCC’s additional requirements for ETC status.

On January 25, 2006, and in Docket No. 2006-37-C, the Office of Regulatory Staff (ORS) filed a Petition for a Rulemaking Proceeding to Examine the Requirements and Standards to be Used by the Commission When Evaluating Applications for ETC Status and When Making Annual Certification of ETC Compliance to the FCC. The Commission scheduled workshops for October 12, 2006 and May 25, 2007, and held a hearing on June 26, 2007. The Commission has accepted Comments from various participants to the proceeding. As of the date of this order, the Commission continues its work toward finalizing its own requirements and standards for evaluating applications for ETC status or for annual certification to the FCC of ETC compliance. However, in its March 27, 2007 order, the Commission stated it “should be guided by reference to the services designated for support set out at 47 CFR 54.101.”

On April 18, 2007, Alltel filed its Application for Designation as an ETC under 47 U.S.C. § 214(e)(2), arguing it met the requirements for receiving ETC status as stated by the FCC. South Carolina Telephone Coalition (SCTC) and United Telephone Company of the Carolinas d/b/a Embarq (Embarq) intervened. ORS was a party pursuant to statute.

¹ Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371 (2005).

The public hearing was held at the Commission offices on July 11, 2007, with the Honorable G. O’Neal Hamilton, Chairman, presiding. At the hearing, Burnet R. Maybank, III, Esquire, and Sean Simpson, Esquire, represented Alltel. John Bowen, Esquire, and Margaret Fox, Esquire, represented the SCTC. Scott Elliott, Esquire, and H. Edward Phillips, Esquire, represented Embarq. C. Lessie Hammonds, Esquire, and Shealy Boland Reibold, Esquire, represented ORS.

FINDINGS OF FACT

After thorough consideration of the entire record including the testimony, exhibits and the applicable law, the Commission makes the following findings of fact with respect to Alltel’s application:

1. Alltel is authorized to provide Cellular Mobile Radio Service throughout South Carolina.
2. Alltel has operated for several years in South Carolina and has expressed its commitment to continuing and expanding its service to South Carolina residents through utilization of USF funds it would receive if its application for ETC status is approved.
3. Alltel currently provides several of the ETC services required by the FCC to its customers. Alltel has agreed to offer all of the nine services set forth in 47 C.F.R. §54.01(a) using either its own facilities or a combination of its own facilities and resale of another carrier’s services. The requirement that a carrier “offer” the services does not mean it must actually provide ubiquitous service prior to certification as an ETC, and the Commission cannot place such a condition on a carrier prior to certification.²

² See e.g. Federal State Joint Board on Universal Service, RCC Holdings, Inc., Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area in the State of Alabama, Memorandum Opinion and Order, DA 02-3181 (Wireless Competition Bureau, rel. November 27, 2002).

4. Alltel has submitted a plan detailing its planned expansion and improvement of equipment and services should it receive federal USF funding.

5. Alltel has reiterated that expansion of and improvements to equipment and services will not be initiated in the designated areas unless it receives USF funding.

6. Federal USF funding is intended to ensure that consumers in all regions of the nation have access to quality telecommunications services at just, reasonable, and affordable rates and that the services and rates in rural, insular, or high cost areas are comparable to those in urban areas.³ Granting Alltel ETC status would expand service to currently unserved or underserved areas in the requested service area and extend service to lower income areas through the utilization of Lifeline and Link-up services. Alltel states it will advertise Lifeline and Link-up services throughout the ETC designated areas through newspapers, television, radio, public exhibits and displays, and its website, should its application for ETC status be approved.

7. Granting Alltel ETC status would result in infrastructure development in the projected areas, which could promote economic development due to the availability of high quality wireless services.

8. Granting Alltel's petition to be named an ETC would bring federal USF funds into South Carolina. In 2006 and prior years, South Carolina received no allocations from the USF for competitive ETCs despite paying into the fund.

9. Alltel has provided substantial information to the Commission regarding its application and has indicated it is willing to provide any further information the Commission requests in the future.

³ 47 U.S.C. 254(b).

10. The Commission has authority to impose additional requirements on carriers it designates as ETCs in South Carolina. In doing so, the Commission recognizes that the additional requirements adopted by the FCC as set forth in 47 C.F.R. § 54.202(a) are more stringent than the requirements previously used for ETC designation and these new requirements will be guiding principles in development of Commission rules established for ETC designation. The Commission further recognizes these guidelines were the underlying principles used in the Commission-promulgated rules filed with the Legislative Council for designation of new ETCs. While the Commission continues to develop its own rules as of the date of this order, it has chosen to proceed with review of the applications for ETC designation.

11. Alltel has met all the necessary statutory and regulatory prerequisites established in 47 U.S.C. §214(e)(1) for designation as an ETC.

12. Pursuant to FCC guidelines, the Commission finds that it is in the public interest, as defined by the FCC, to grant Alltel ETC status for the above-stated reasons.

13. The Commission is to submit an annual certification to the FCC that a carrier has remained in compliance with the ETC requirements and standards prior to an ETC receiving continued federal USF support. Should the Commission determine, upon Alltel seeking recertification in subsequent years, Alltel has not honored or followed through on its commitments and plans as set forth before the Commission, the Commission may deny Alltel's annual recertification, thereby precluding Alltel from receiving further federal USF support.

IT IS, THEREFORE, ORDERED THAT:

1. The Commission has jurisdiction to designate Alltel as an ETC pursuant to 47 U.S.C. § 214(e)(2).

2. Alltel is hereby designated, effective as of the date of this Order, as an ETC and is eligible to receive all available support from the federal USF, including support for rural and “high-cost” areas and “low income” customers within its designated service territory.

3. All federal USF funding received as a result of this Order will be used to support the expansion and improvement of services in designated areas and provide Lifeline credits for low income customers.

4. Alltel shall advertise to the public in its ETC-designated area that it is offering the supported universal services, and the charges for those services, in local circulation newspapers. Alltel shall also advertise to the public the availability of Lifeline and Link-Up services in a manner reasonably designed to reach those likely to qualify for such services.

5. Alltel shall abide by its commitment to provide service throughout its ETC-designated service area to all customers, including low income customers, making a request for service, the reasonableness of which may be determined by ORS.

6. Alltel shall abide with all applicable statutes, rules, and regulations affecting ETC status and obligations. Alltel shall also abide by the requirements and standards which may be established by this Commission in Docket No. 2006-37-C.

7. Alltel shall comply with all annual reporting and certification requirements as set forth by applicable statutes, rules, and regulations.

8. Should the Commission determine Alltel has not honored its commitments and plans as set forth before the Commission, or has failed to follow the applicable statutes,

rules, or regulations, the Commission may deny Alltel's annual recertification, effectively revoking Alltel's designation as an ETC.

9. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

G. O'Neil Hamilton, Chairman

ATTEST:

C. Robert Moseley, Vice Chairman

(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2007-151-C

IN RE:

Application of Alltel Communications,)	
Incorporated for Designation as an Eligible)	CERTIFICATE OF
Telecommunications Carrier in the State of)	SERVICE
South Carolina)	

This is to certify that I, Pamela J. McMullan, have this date served one (1) copy of the **PROPOSED ORDER** in the above-referenced matter to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

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Pamela J. McMullan

August 29, 2007
Columbia, South Carolina